

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**BROOK SIVLEY**

**PLAINTIFF**

**VS.**

**CASE NO. 4:05cv191-MPM-SAA**

**COLDWELL BANKER REAL ESTATE  
CORPORATION, ET AL.**

**DEFENDANTS**

**ORDER**

Defendants Coldwell Banker and Bank of Commerce have each filed motions for dismiss [5-1, 41-1], arguing that plaintiff's complaint should be dismissed for failure to comply with relevant Fifth Circuit precedent relating to the particularity of pleadings in statutory fraud actions. *See, e.g. United States v. Humana Plan of Texas, Inc.*, 336 F.3d 375, 384 (5<sup>th</sup> Cir. 2003). In her response, plaintiff denies that her complaint fails to meet the required standards for particularity, but she has nevertheless offered to file an amended complaint setting forth more detailed allegations against defendants. The court has determined to accept plaintiff's offer in this regard, and it is therefore ordered that plaintiff file such an amended complaint within thirty days of this court's order.<sup>1</sup>

In light of the foregoing, it is ordered that plaintiff file an amended complaint setting forth more detailed allegations within thirty days. Defendants' motions to dismiss [5-1, 41-1] are dismissed without prejudice.

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<sup>1</sup>In light of the court's conclusion in this regard, it is unnecessary to consider whether the complaint in this case is so lacking in particularity as to warrant dismissal.

SO ORDERED this 11<sup>th</sup> day of May, 2006.

/s/ Michael P. Mills  
**UNITED STATES DISTRICT JUDGE**